

NAC GROUP, INC. - STANDARD TERMS AND CONDITIONS (EFFECTIVE AUGUST 07, 2023)

THE FOLLOWING NAC GROUP, INC. ("NAC") STANDARD TERMS AND CONDITION ("TERMS") GOVERN ALL SALES OF PRODUCTS AND SERVICES (COLLECTIVELY, "PRODUCTS") BY NAC:

1. These Terms are effective as of the date written above. These Terms may be amended or modified by NAC in its sole discretion by posting amended terms on its website. Changes to these Terms will not apply retroactively to purchases unless agreed to between you and NAC. NAC's failure to object to any document, communication or act of any person will not be deemed a waiver of any of these Terms. Any addition or change to these Terms must be specifically agreed to in writing by a duly authorized officer of NAC before becoming binding on NAC.
2. These Terms supersede any and all other agreements, representations, and offers, whether written, oral, or implied regarding any of the subject matter contained herein, including, without limitation, any purchase order, invoice, or other documents prepared by or on behalf of you ("Customer"), other than a Purchase Order Acknowledgement Non-Cancelable, Non-Returnable Agreement ("NCNR"). If these Terms conflict with an NCNR, the NCNR shall control.
3. Except as otherwise set in an NCNR, the terms of payment to NAC will be based on the Customer's existing account terms with NAC. Prices are conditional upon timely payment. Any past-due balance will accrue interest at the greater of the monthly rate of one and one-half percent or the maximum amount permitted by applicable law. Freight Charges may be constructed based on standard carrier rates and fees and may not reflect actual transportation costs.
4. In the absence of prior agreement as to shipping, Customer agrees to pay all shipping charges and fees, and NAC may select a carrier in its sole discretion. NAC's responsibility for any loss or damage ends, and title passes, when products are delivered (a) to the initial common carrier from NAC, (b) to Customer, or (c) to Customer's agent (including, without limitation, any test house or value-added service provider), whichever occurs first. Customer will pay for storage charges if NAC holds products at Customer's request pending instructions or rescheduled delivery. All products shall be delivered to Customer Ex Works (INCOTERMS 2020). Customer shall bear any costs of insurance for transportation, shipment, and delivery of products.
5. All products sold by NAC and the components and materials utilized in any assembled or customized products, are covered by, and subject to, the terms, conditions, and limitations of the manufacturer's standard warranty, which warranty is expressly in lieu of any other warranty, express, or implied, of or by NAC or the manufacturer. If the manufacturers' warranty does not exist or cannot be honored for reasons other than acts or omissions of Customer, NAC offers a 30-day warranty with the following coverage: Customers' exclusive remedy, if any, under these warranties is limited to NAC's election, to any of (a) refund of Customer's purchase price (b) repair by NAC or the manufacturer of any products found to be defective; or (c) replacement of any such product. Customer acknowledges that except as specifically set forth or referenced in this paragraph, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY NAC OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. NAC ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER'S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO NAC BY OR ON BEHALF OF THE CUSTOMER. Use of Customer's part number on any document or on any products is for convenience only and does not constitute any representation by NAC with respect to the performance, specifications, or fitness of any part for any purpose. The performance of any value-add service may void the manufacturer's warranty and render products non-returnable. Any third-party value-add service provider is deemed to be an agent of Customer.
6. Customer is responsible for all costs and expenses incurred by NAC in collecting any sums owed by Customer (which may include, but are not limited to, collections agency, reasonable attorneys' fees, and court costs and expenses). NAC shall have the right to offset any sum owed by NAC to Customer against any sum owed by Customer to NAC. All transactions are governed by the internal laws of the State of Florida without regard to conflicts of law principles or laws that would result in the application of laws from any other jurisdiction. The parties waive any right to trial by jury.
7. Products are deemed accepted by Customer unless Customer notifies NAC in writing within five (5) days of delivery to Customer ("Rejection Notice"), which Rejection Notice shall state with specificity the basis for Customer's rejection of the products. Other than as may be set forth in an NCNR, Customers may only return products that (a) are damaged during shipment; or (b) fail quality control inspections (for example, bent leads, oxidation, improper date code, improper part marking, etc.), provided that the Rejection Notice contains a written, detailed failure report. No returns may be made for any reason without a Return Material Authorization Form issued by NAC. If Customer refuses to accept tender or delivery of any products or returns any products without authorization from NAC, such products will be held by NAC awaiting Customer's instructions for 20 days, after which NAC may deem the products abandoned and dispose of them as it sees fit, without crediting Customer's account. If the invoice(s) that are affected by the credit memo(s) are still open, the credit memo will be applied directly to the corresponding invoice. All credits must be used within 6 months of issuance. In addition, NAC will review requests for replacement or credit for products that fail to perform to the applicable manufacturer specification(s) if Customer provides a written notice to NAC which shall also contain a written, detailed failure report within the manufacturer's specified warranty period, if available, and for 30 days after delivery to Customer, if not. The terms of this Section 7 shall not apply to warranties for parts set forth in NCNRs unless stated otherwise therein.
8. NAC will not be liable for any failure or delay in its performance or in the delivery of shipments of products, or for any damages suffered by Customer by reason of such failure or delay, if caused by, or arising in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo strike shortage of labor, fuel, owner, materials, or supplies, delay in delivery by NAC's suppliers or any other cause or causes beyond NAC's control. NAC reserves the right to cancel without liability any full or partial order, the shipment of which is or may be delayed for more than 30 days by reason of any such cause. NAC reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.
9. Export-controlled products purchased may be subject to export or resale restriction or regulation. NAC strives to maintain strict compliance with the Export Administration Regulations ("EAR"), International Traffic in Arms ("ITAR"), Foreign Trade Regulations ("FTR"), Office of Foreign Assets Control ("OFAC") sanctions program, and all other applicable U.S. and international import and export laws and regulations.
Purchases by Domestic Customers: Customer purchases items from NAC for resale or end-use by you or your domestic and international customers. Accordingly, we ship these commodities only to you or your domestic (U.S.) affiliates, agents, or freight forwarders. These are purely domestic transactions. Should you export, or cause to export, items purchased from NAC, you are an exporter within the meaning of United States export regulations. Accordingly, you agree to comply with all U.S. export laws and regulations relating to the export of the products you have purchased or will purchase from us, including obtaining any required export authorizations or licenses and the submission of the Electronic Export Information ("EEI") as required under the FTR. NAC shall not be listed as the "exporter" or U.S. Principal Party In Interest ("USPPI") on any documentation relating to any export as NAC is not the exporter or USPPI. You are acting on your own behalf and not as NAC's agent for export or other purposes.
Purchases by International Customers: Any products purchased for export may require further documentation to be filed detailing the end customer and use of the product.
10. Customer shall not directly, or indirectly, sell, export, reexport, transfer, divert, or otherwise dispose of any products purchased from NAC to Cuba, Iran, North Korea, Syria, Sudan, the Crimea Region of the Ukraine, or to any other country or region subject to U.S. Economic sanctions or trade embargoes unless authorized by the U.S. government. Customer shall not, directly or indirectly, use, sell, export, reexport, transfer, divert, or otherwise dispose of any products any Export Control Classification Numbers supplied by NAC to any military end-user or for any military use in China, Russia, or Venezuela, without first having obtained authorization by the U.S. Government. Customer shall not, directly or indirectly, use, sell, export, reexport, transfer, or divert any commodities supplied by NAC for use in restricted activities or end-uses including the development, production, use of stockpiling of nuclear, chemical, or biological weapons; maritime nuclear propulsion activities; or rockets, missiles, or unmanned aerial vehicles unless authorized by the U.S. government.
11. Customer acknowledges that U.S. law prohibits the sale, transfer, export or reexport of commodities to individuals or companies listed in the U.S. Department of Commerce Denied Persons List, Entity List, or Unverified List; the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons (SDN List); and the State Department's Debarred List or Nonproliferation Sanctions List. Customer further warrants and represents that it will screen end-users against these restricted party lists. Any statement as to product country of origin, Export Control Classification Number, or compliance with applicable law (including, without limitation, that products are lead-free or RoHS compliance is as provided to NAC by its supplier, and NAC does not warrant its accuracy and will not be liable for any error with the regard to the same. Customer uses such information at its own risk.
12. NAC certifies that it complies with all applicable requirements of Section 6, 7, and 15 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.
13. Except for the warranty coverage referenced in paragraph 3, above, NEITHER NAC NOR ITS SUPPLIERS WILL HAVE ANY LIABILITY OR OBLIGATION TO CUSTOMER OR ANY OTHER PERSON FOR ANY CLAIMS, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS OR BY ANY FAILURE OR DELAY IN NAC'S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT CUSTOMER WILL HAVE INFORMED NAC OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.
14. No order or Customer obligation may be cancelled, rescheduled, reconfigured, or assigned without the NAC's prior written authorization and, in such event, Customer will be liable to NAC for any additional costs and expenses incurred by NAC. Prices are subject to change by NAC upon Customer rescheduling or reconfiguration of orders. Prices are also subject to change in response to supplier price increases or if a price has been quoted in error, whereupon Customer may cancel the undelivered portion of any affected order by delivering written notice to NAC prior to shipment thereof and within 10 days of its receipt of notice of the price increase.
15. Customer shall defend, indemnify, and hold harmless NAC and its affiliates, shareholders, directors, officers, agents, employees, and representatives (each, an "Indemnified Party") from and against all losses, damages, liabilities, deficiencies, claims, allegations, causes of action, actions, judgments, assessments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, whether direct, contingent, or consequential, and no matter how arising, whether or not meritorious, incurred by an Indemnified Party or awarded against an Indemnified Party arising out of or resulting from: (i) Customer's or anyone acting on its behalf's breach of any representation, warranty, covenant, or other obligation set out in these Terms, the NCNR, or any other agreement with NAC; (ii) violations of law or negligence or more culpable act or omission of the Customer or anyone acting on its behalf; or (iii) Customer's modification, destruction, sale, lease, re-sale, transfer, or any other use or disposition of any product sold or transferred to Customer by or on behalf of NAC.